

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

STATE OF COLORADO, et al.,

Plaintiffs,

v.

U.S. DEPARTMENT OF HEALTH AND HUMAN
SERVICES, et al.,

Defendants.

DECLARATION OF NILESH KALYANARAMAN, MD

I, Niles Kalyanaraman, declare as follows:

1. I am a resident of the State of Maryland. I am over the age of 18 and have personal knowledge of all the facts stated herein, except to those matters stated upon information and belief; as to those matters, I believe them to be true. If called as a witness, I could and would testify competently to the matters set forth below.

2. I serve as the Deputy Secretary for Public Health Services in the Maryland Department of Health.

3. The Maryland Department of Health - Public Health Services (MDH-PHS) comprises eight operational units tasked with providing vital public health services to Maryland residents, including infectious disease control, environmental health programs, maternal, child, and family health services, food safety, health care quality, and vital records, as well as overseeing the Office of the Chief Medical Examiner, the State Anatomy Board, and activities of the 24 local health departments in the state.

4. Our agency recently received 10 award terminations from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention (hereinafter “CDC”). The total value of the terminated awards, considering known expenditures to date and anticipated expenditures through March 24, 2025 after final reconciliation, was approximately \$201 million. All terminations were purportedly “for cause” based on the end of the COVID pandemic, rather than any failure of the Maryland Department of Health to follow the terms or conditions of the grants. Descriptions of these awards and the impact of these terminations follow:

Immunization Cooperative Agreements

5. Beginning in 2019, the CDC funded immunization at the State level through a Cooperative Agreement, originally advertised under Notice of Funding Opportunity (NOFO) IP-19-1901, *Immunization and Vaccines for Children*. MDH-PHS received multiple supplemental awards through this Cooperative Agreement. In 2020 and 2021, the CDC awarded supplemental funding to state health departments to bolster vaccination capacity during the Coronavirus Disease 2019 (COVID-19) pandemic.

6. On June 5, 2020, the CDC issued a Notice of Award setting forth the terms and conditions of supplemental funding.

7. MDH-PHS used the supplemental funding to develop critical infrastructure to support the prevention of COVID-19 and other vaccine-preventable diseases by holding vaccination clinics, hiring public health staff, conducting outreach and promotion of vaccination, upgrading and enhancing Maryland's Immunization Information System (ImmuNet), and purchasing personal protective equipment.

8. On September 23, 2020, the CDC issued a Revised Notice of Award. Further extensions were issued on January 15, 2021, March 31, 2021, and June 22, 2021. By letter on April 2, 2024, MDH-PHS requested permission to carry over unobligated funds. This carryover of immunization funding in the amount of \$12,873,606.00 was approved by the CDC in a letter dated April 26, 2024.

9. Since June 2020, MDH-PHS has used the *Immunization and Vaccines for Children* funds and the above-referenced supplemental funding in a manner fully consistent with CDC's guidance on immunization projects. From time to time, the CDC issued guidance for

recipients of Covid supplemental funding. Two such guidance documents were issued in January and April of 2021.

10. MDH-PHS personnel maintained contact with the grant monitors and administrators at the CDC throughout the term of the grant. MDH confirmed that available COVID supplemental grant funding could be used to develop and improve immunization programs and infrastructure to be used for other immunization efforts such as those combating the spread of influenza and RSV. The CDC confirmed and formalized this guidance in a clarification issued in July 2023.

11. This funding has supported the expansion and upgrade of ImmuNet - Maryland's immunization information system. ImmuNet is the confidential, secure, HIPAA-compliant database that stores individuals' vaccination records, consolidating immunization information into one reliable source. As of 2019, all vaccinations administered in Maryland are reported to ImmuNet, per Maryland Code Ann., Health General §18–109. This information is critical for individual patient care and is used to identify gaps in vaccine coverage and improve vaccination rates, thereby reducing vaccine-preventable disease. ImmuNet informs schools of student vaccination rates, supporting school registration and allowing them to prepare for outbreaks of infectious diseases.

12. ImmuNet houses the vaccination records for over 9.8 million people (residents of Maryland and out-of-state residents vaccinated in Maryland) and over 110 million individual vaccination records. MDH-PHS is utilizing grant funds to make necessary upgrades that will allow the database to handle this large volume. Disruption will result in performance difficulties for Maryland healthcare providers and decreased access to ImmuNet records for Maryland families.

13. This supplemental funding allows Maryland's 24 local health departments to conduct vaccination clinics, outreach, disease investigation, and vaccination campaigns promoting seasonal influenza, RSV, and covid vaccination efforts throughout Maryland. These activities will be disrupted, leading to decreased vaccination rates and higher risk of vaccine-preventable infectious disease spread or outbreaks.

14. As of March 24, 2025, \$49,289,610 remained unspent for use through June 30, 2025 and a no cost extension was submitted to CDC on February 28, 2025, per CDC guidance, to use these funds through June 30, 2027. This extension request was pending at the time the termination notification was received.

15. MDH-PHS received no requests for performance measures, or notice of problems with performance or deliverables under these awards.

16. On March 25, 2025, without any prior notice or indication, the CDC informed MDH-PHS that effective March 24, 2025 the above-referenced Cooperative Agreement was being terminated.

17. The termination notice did not allege any failures of performance or violations of the terms and conditions of the award, stating only that "[t]he termination of this award is for cause. HHS regulations permit termination if 'the non-Federal entity fails to comply with the terms and conditions of the award', or separately, 'for cause.' The end of the pandemic provides cause to terminate COVID-related grants and cooperative agreements. These grants and cooperative agreements were issued for a limited purpose: to ameliorate the effects of the pandemic. Now that the pandemic is over, the grants and cooperative agreements are no longer necessary as their limited purpose has run out. Termination of this award is effective as of the date set out in your Notice of Award."

18. MDH-PHS has never experienced a termination occurring in this abrupt manner and was surprised that there was no consideration of the need for transition planning. In addition, MDH-PHS was given 30 days from March 24, 2025 to submit final Federal Financial Reports (FFRs, SF-425). The notice was not received until March 25, 2025. Typically, awardees have 90 days at the conclusion of a funding cycle to finalize all fiscal transactions and submit FFRs. It will be extremely challenging to receive and process invoices from contractors and subawardees, draw down funds from the federal Payment Management System, reconcile accounts, and submit FFRs within 30 days from March 24, 2025.

19. MDH-PHS relied and acted upon the CDC's commitment to provide immunization funding, the CDC's approval of immunization activities, and the approval of approximately \$12.8 million for use through June 2025. In addition, MDH-PHS and its subawardees will honor their contractual obligations, which often involves requiring 60 days notice to terminate contracts. Having federal funding abruptly discontinued will result in the State of Maryland being responsible for obligations that are contractually required with its subawardees and that were made with the expectation that if federal funds were terminated, proper notice would have been given.

20. Prior to the award termination on March 24, 2025, CDC had never provided MDH-PHS with notice, written or otherwise, that the Cooperative Agreement administered by MDH-PHS was in any way unsatisfactory.

Epidemiology and Laboratory Capacity for Infectious Diseases (ELC) Cooperative Agreements

21. The Department of Health and Human Services, Centers for Disease Control and Prevention terminated two supplemental awards to the Epidemiology and Laboratory Capacity for Infectious Diseases cooperative agreement received by MDH-PHS (hereinafter

ELC Cooperative Agreement). A cooperative agreement differs from grant funding in that it is a collaborative effort between the State and Federal government to implement activities supported by the award.

22. The ELC Cooperative Agreement has existed since the 1990s and provides funds to states and large municipalities to build and support capacity for infectious disease surveillance, investigation, and response to infectious diseases and outbreaks. ELC supplemental funding (ELC Enhancing Detection Expansion) was awarded to MDH-PHS on January 13, 2021. The ELC Enhancing Detection Expansion supplemental funding was extended to July 31, 2026 in a Notice of Award dated October 17, 2023. On January 12, 2024, ELC supplemental funding (ELC SHARP 2 Supplement) was awarded for activities through July 31, 2027.

23. The ELC Enhancing Detection Expansion supplemental funding supports cross-cutting epidemiologists who conduct public health surveillance for investigation of, and response to, diseases and conditions of public health importance (e.g., measles and other vaccine-preventable infections, foodborne diseases, antibiotic resistance diseases, and high consequence pathogens such as Ebola and Marburg virus). This funding also supports critical infection prevention work to decrease transmission of infectious diseases in healthcare settings such as acute care hospitals and nursing homes.

24. The ELC Enhancing Detection Expansion supplemental funding supports Maryland's National Electronic Disease Surveillance System (NEDSS). Laboratories, healthcare institutions and healthcare providers report instances of approximately 80 infectious diseases including measles, novel influenza, Ebola, *Salmonella*, and pertussis; these reports are captured in NEDSS and reviewed to identify unusual instances of disease, detect new patterns of disease occurrence, and monitor the effectiveness of public health interventions. ELC funding is critical

to maintain and upgrade NEDSS, such as enhancing electronic reporting of diseases and having the ability to capture increasing numbers of reports.

25. ELC Enhancing Detection Expansion supplemental funding supports laboratory staff and laboratory capacity, including equipment and supplies needed to test for COVID and other diseases. Tests include PCR testing and genetic sequencing testing that allow the identification of patterns and linkages across cases of infectious disease and implicated sources of infection (e.g., food sources, environmental sources). These laboratory functions are essential to respond to COVID, but the infrastructure developed for COVID has broad benefit and lasting capacity that allows MDH-PHS to identify and respond to infectious disease threats such as Ebola, high path avian influenza, and foodborne pathogens such as Listeria.

26. The ELC SHARP 2 supplemental funding supported automated reporting from Maryland's acute care hospitals regarding hospital bed capacity to the National Healthcare Safety Network, a healthcare-associated infection tracking system maintained by CDC. Hospital bed capacity was reported regardless of the condition or reason that a person was hospitalized.

27. MDH-PHS has expended ELC funding in a variety of ways that reduce harms and mitigate risk of infectious disease to members of the public. For example, the ability to respond to infectious disease outbreaks enabled MDH-PHS to identify and interrupt a deadly Listeria outbreak in 2024. Listeria infection can cause severe complications, especially in newborns, pregnant women, older people, and people who are immunosuppressed. Listeria infection is a reportable condition in Maryland. Reports of infection are sent automatically to MDH directly from the lab information systems used by clinical labs, through a process that has been supported by CDC funding called electronic laboratory reporting (ELR). Over the last 12 months, MDH has received over 3 million ELRs. In the summer of 2024, amidst a multi-state outbreak of

severe listeriosis infections, CDC-funded epidemiologists at the MDH noticed an increase in ELRs of Listeria infection. At the same time, cases were being identified in other states. In collaboration with Maryland local health departments, the MDH epidemiologists obtained food histories from the patients and noticed that several reported eating liverwurst prior to becoming sick. In response, LHD staff went to the store where one of the patients purchased liverwurst and obtained an unopened 3.5 lb loaf of Boar's Head liverwurst. Using staff, equipment and supplies that also supported COVID testing, the state public health lab was able to perform the specialized advanced molecular testing that only public health labs perform to confirm that not only was the liverwurst contaminated with Listeria; it was contaminated with the same genetic strain of Listeria that was causing the infections. This information was shared with CDC and the USDA, which led to a nationwide recall of more than 200,000 lbs of contaminated liverwurst. This outbreak ultimately caused 61 cases in 19 states, including six in Maryland. Sixty of the 61 cases were hospitalized; 10 died; however, without the public health funds which support the continued enhancements to Maryland disease reporting systems and the advanced molecular work done by the state public health laboratory, this outbreak could have been much worse.

28. Additionally, "Enhanced Barrier Precautions" (EBP) balances infection prevention and nursing home residents' well being. Because of the ELC funding, Maryland has become a leader in implementing EBP. A team of ELC-funded MDH nurses, infection preventionists, and epidemiologists has been teaching nursing home staff how to implement EBP safely, how to get leadership buy-in, and to work through the challenges of changing staff behaviors. Since 2023, about 200 healthcare facilities in Maryland have been trained to implement EBP by the MDH team. Because of these efforts, many Maryland nursing home residents are now able to live without being isolated and with an improved quality of life, and

without putting other residents at risk. Without continued investment in this program, the MDH team will not be able to expand their training to remaining facilities or continue to support nursing homes with other important infection prevention efforts.

29. The CDC issued guidance regarding the expanded use of funds within the ELC framework and the cooperative agreements, specifically authorizing expanded use of the public health frameworks developed and improved in response to COVID. One such guidance document was issued January 12, 2023. Referenced therein were additional expansion authorizations from a prior Guidance document.

30. On March 25, 2025 the CDC informed MDH-PHS that effective March 24, 2025 the ELC supplemental award was being terminated.

31. The stated grounds for termination were “for cause. HHS regulations permit termination if ‘the non-Federal entity fails to comply with the terms and conditions of the award’, or separately, ‘for cause.’ The end of the pandemic provides cause to terminate COVID-related grants and cooperative agreements. These grants and cooperative agreements were issued for a limited purpose: to ameliorate the effects of the pandemic. Now that the pandemic is over, the grants and cooperative agreements are no longer necessary as their limited purpose has run out. Termination of this award is effective as of the date set out in your Notice of Award.”

32. MDH-PHS has never experienced a termination occurring in this abrupt and retroactive manner and was surprised that there was no consideration of the need for transition planning. In addition, MDH-PHS was given 30 days from March 24, 2025 to submit final Federal Financial Reports (FFRs, SF-425). The notice was not received until March 25, 2025. Typically, awardees have 90 days at the conclusion of a funding cycle to finalize all fiscal transactions and submit FFRs. It will be extremely challenging to receive and process invoices

from contractors and subawardees, draw down funds from the federal Payment Management System, reconcile accounts, and submit FFRs within 30 days from March 24, 2025.

33. MDH-PHS relied and acted upon its expectation and understanding that HHS would fulfill its commitment to provide ELC funding it had awarded to MDH-PHS. Immediate termination will harm Maryland's ability to continue to upgrade the NEDSS system, to build and sustain capacity within the state public health laboratory to respond to a range of infectious disease outbreaks and threats, and supports health department employees (salaries). Efforts to improve infection prevention practices and reduce transmission of infectious diseases in nursing home and hospital settings are ongoing and will be curtailed given the termination of funding. Funding is being used to build sustainable capacity to respond to emerging threats such as high path avian influenza, which has been recently detected in multiple jurisdictions in poultry in Maryland. Curtailed funding could limit the ability to detect transmission of avian influenza from birds to humans, thus posing immediate risks to public health.

34. Prior to the grant award termination on March 24, 2025, the Department of Health and Human Services, Centers for Disease Control and Prevention had never provided MDH-PHS with notice, written or otherwise, that the grant administered by MDH-PHS was in any way unsatisfactory.

National Initiative to Address COVID-19 Health Disparities Among Populations at High-Risk and Underserved, Including Racial and Ethnic Minority Populations and Rural Communities Grant

35. In 2021, MDH-PHS received funding via the "National Initiative to Address COVID-19 Health Disparities Among Populations at High-Risk and Underserved, Including Racial and Ethnic Minority Populations and Rural Communities" (hereinafter "Health Disparities") grant.

36. This grant was authorized by the Consolidated Appropriations Act, 2021 (P.L. 116-260), which contained the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (P.L. 116-260, Section 2, Division M) which provided, in part, funding for strategies to to assess and address the needs of communities disproportionately affected by COVID-19, including racial and ethnic minority groups and people living in rural communities. This grant provided funding to health departments to address COVID-19 related health disparities and advance health equity by expanding the health departments' and partners' capacity to prevent and control the infection and transmission of COVID-19 and improve the overall health of residents.

37. MDH-PHS used the "Health Disparities" grant to identify and connect patients to resources related to COVID-19 and other social needs such as housing and food. Funds were also used to develop the Community Health Worker (CHW) workforce so more trusted community members were trained and working to increase health knowledge and self-sufficiency through outreach, community education, and the provision of information across Maryland. MDH-PHS built community capacity across Maryland by working with a technical assistance partner to build capacity and skills across local health departments and other organizations addressing health disparities.

38. On May 26, 2021, the CDC produced a Notice of Award setting forth the terms and conditions of the award.

39. Funding was approved in the amount of \$21,211,178.00 for a two year performance and budget period of June 1, 2021 through May 21, 2023, with future funding to be based on satisfactory programmatic progress and the availability of funds. On February 23, 2024, CDC awarded a No Cost Extension of this funding through August 31, 2025.

40. Since June 2021, MDH-PHS has used the “Health Disparities” funds in a manner fully consistent with CDC’s statements regarding the nature of the award and MDH-PHS’s application for funding.

41. The “Health Disparities” award has funded personnel in local health departments and activities such as capacity and skill-building workshops, transportation of community members to medical appointments, trainings (e.g., Mental Health First Aid), community outreach, the creation of a community resources directory, health fairs focusing on high-risk and hard-to-reach communities such as the local Watermen on the Eastern Shore, and mini-grants to community organizations to build community gardens and conduct chronic disease screenings.

42. There is roughly \$1 million of these funds remaining as of March 24, 2025 that were planned to be spent by Maryland’s grant end date of August 31, 2025, and mostly spent by June 30, 2025, the end of the state fiscal year.

43. MDH-PHS has submitted all reports in a timely and accurate manner, responding to all CDC requests and inquiries immediately and incorporating all CDC feedback.

44. These funds were set to end on August 31, 2025, with most grants and local health department awards ending on June 30, 2025, and transition planning was underway. However, the abrupt nature of the termination, with no advance warning and no time to plan for transition, could result in community members unable to get to medical appointments, community outreach events abruptly canceled, skill-building workshops not started or interrupted, and missed opportunities for early detection of chronic diseases.

45. On March 25, 2025, without any prior notice or indication, the CDC informed MDH-PHS that effective March 24, 2025 the above-referenced Award was being terminated.

46. The termination notification states, “The purpose of this amendment is to terminate this award which is funded by COVID-19 supplemental appropriations. The termination of this award is for cause. HHS regulations permit termination if ‘the non-Federal entity fails to comply with the terms and conditions of the award’, or separately, ‘for cause.’ The end of the pandemic provides cause to terminate COVID-related grants and cooperative agreements. These grants and cooperative agreements were issued for a limited purpose: to ameliorate the effects of the pandemic. Now that the pandemic is over, the grants and cooperative agreements are no longer necessary as their limited purpose has run out. Termination of this award is effective as of the date set out in your Notice of Award.”

47. The “Health Disparities” grant was suddenly and unexpectedly terminated, without notice. The termination notice was received on March 25, 2025 with an effective date of March 24, 2025. MDH-PHS has never experienced a termination occurring in this manner and was surprised that there was no consideration of the need for transition planning. In addition, MDH-PHS was given 30 days from March 24, 2025 to submit final Federal Financial Reports (FFRs, SF-425). Typically, awardees have 90 days at the conclusion of a funding cycle to finalize all fiscal transactions and submit FFRs. It will be extremely challenging to receive and process invoices from contractors and subawardees, draw down funds from the federal Payment Management System, reconcile accounts, and submit FFRs within 30 days from March 24, 2025.

48. Prior to the grant award termination on March 24, 2025, the CDC had never provided MDH-PHS with notice, written or otherwise, that the grant administered by MDH-PHS was in any way unsatisfactory.

Community Health Worker Grant

49. In August of 2021, the CDC approved an award for the “Maryland CHW Improving Health and Resilience Project” (hereinafter “Community Health Worker Grant”). The original award was to run through August 30, 2024, however, MDH-PHS received a No Cost Extension through August 31, 2025 which was the anticipated final end date of this funding.

50. The original purpose of the Community Health Worker Grant was to increase the capacity of community health workers in Maryland to serve their community members by increasing access to the vaccine for COVID-19 and increasing the vaccination rate as a result in Maryland. The CDC later expanded that purpose to allow for other training topics and deployment services outside of COVID-19. Therefore, MDH-PHS also used grant funds to include social services in those communities served and linkages to primary and secondary care.

51. Funding was used in four rural counties in Maryland (Allegany, Dorchester, Somerset and Garrett) to support the grant objectives in a variety of ways. Community health workers (hereinafter “CHWs”) were recruited from within the communities that needed to be served. CHWs were provided training about COVID-19 health equity, community resilience and best approaches for engaging community members and then were deployed into the rural communities they served.

52. MDH-PHS applied for a 12 month No Cost Extension for the original grant on July 26, 2024 and on August 6, 2024, the extension was approved. The budget and project period end dates and the period of performance were extended from August 30, 2021 to August 30, 2025. The total amount obligated during the budget period from August 31, 2023 to August 30, 2025 was \$600,000.00 with the total amount of the Federal Award being \$1,800,000.00.

53. On August 6, 2024, the Department of Health and Human Services, Centers for Disease Control and Prevention produced a Notice of Award setting forth the terms and conditions of the grant award.

54. Since 2021, MDH/PHS has used the “Community Health Workers Grant” funds in a manner fully consistent with the Department of Health and Human Services, Centers for Disease Control and Prevention statements regarding the nature of the grant and MDH/PHS’ grant application.

55. During the budget period, MDH-PHS has received no negative feedback regarding the usage of these grant funds and has received continuation of awards every single year, to include a No Cost Extension.

56. On March 25, 2025, without any prior notice or indication, the CDC informed MDH-PHS that effective March 24, 2025 the above-referenced Award was being terminated.

57. The termination notification states, “The purpose of this amendment is to terminate this award which is funded by COVID-19 supplemental appropriations. The termination of this award is for cause. HHS regulations permit termination if ‘the non-Federal entity fails to comply with the terms and conditions of the award’, or separately, ‘for cause.’ The end of the pandemic provides cause to terminate COVID-related grants and cooperative agreements. These grants and cooperative agreements were issued for a limited purpose: to ameliorate the effects of the pandemic. Now that the pandemic is over, the grants and cooperative agreements are no longer necessary as their limited purpose has run out. Termination of this award is effective as of the date set out in your Notice of Award.”

58. The “Community Health Workers Grant” was unexpectedly terminated. With no advance notice, the termination notice was received on March 25, 2025 with an effective date

of March 24, 2025. MDH-PHS has never experienced a termination occurring in this manner and was surprised that there was no consideration of the need for transition planning. In addition, MDH-PHS was given 30 days from March 24, 2025 to submit final Federal Financial Reports (FFRs, SF-425). Typically, awardees have 90 days at the conclusion of a funding cycle to finalize all fiscal transactions and submit FFRs. It will be extremely challenging to receive and process invoices from contractors and subawardees, draw down funds from the federal Payment Management System, reconcile accounts, and submit FFRs within 30 days from March 24, 2025.

59. MDH-PHS relied and acted upon its expectation and understanding that the CDC would fulfill its commitment to provide Community Health Worker Grant funding it had awarded to MDH-PHS.

60. These funds were set to end on August 30, 2025 and transition planning was underway. However, the abrupt nature of the termination, with no advance warning and no time to plan for transition, means that CHW services will be abruptly discontinued and local health department jobs might be at risk.

61. Prior to the grant award termination on March 24, 2025, the Department of Health and Human Services, Centers for Disease Control and Prevention had never provided MDH-PHS with notice, written or otherwise, that the grant administered by MDH-PHS was in any way unsatisfactory.

Conclusion

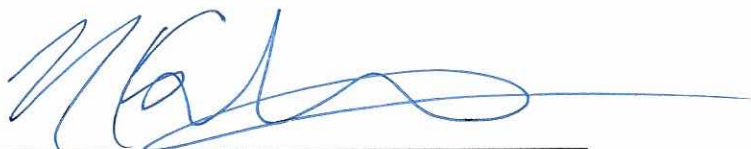
62. Although the Public Health Emergency begun in 2020 may have expired, COVID prevention and treatment remain an important public health function. For the week of March 11-17, 2025, 11 Maryland residents died due to COVID and 132 Maryland residents were hospitalized. During the week ending January 14, 2025, the peak of COVID activity so far this

year, there were over 1,000 new COVID cases over the week, 216 new COVID hospitalizations, 36 deaths caused by COVID, and 77 active COVID outbreaks involving over 900 infected people.

63. COVID relief funding was an investment not just in COVID prevention, but in public health infrastructure and the prevention of other infectious diseases, such as measles, flu, and RSV. MDH-PHS relied on this funding to respond to and mitigate harm from infectious disease outbreaks and emergent public health issues. The abrupt discontinuation of funding puts the residents of Maryland at risk due to loss of critical public health activities.

I declare under penalty of perjury under the laws of the United States that, to the best of my knowledge, the foregoing is true and correct.

Executed on March 28, 2025, at Baltimore, Maryland.



Niles Kalyanaraman, MD, FACP
Deputy Director for Public Health Services
Maryland Department of Health